

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

In re:

DAWN KANE, AKA DAWN
BLESCIA, AKA DAWN MARIE
BLESCIA,

Chapter 13
Bankruptcy No. 16-10659-MDC

Debtor.

* * * * *

**MOTION FOR RELIEF FROM AUTOMATIC STAY
PURSUANT TO 11 U.S.C. §362 (d)(1)**

TD Bank, N.A. by its counsel, SCHILLER, KNAPP, LEFKOWITZ & HERTZEL, LLP, as and for a Motion for Relief from Automatic Stay pursuant to 11 U.S.C. §362(d)(1), states the following as grounds therefor:

1. On February 1, 2019, the debtor, above-named, filed a Voluntary Petition in Bankruptcy under Title 11, Chapter 13, U.S.C., in the United States Bankruptcy Court for the Eastern District of Pennsylvania.
2. The Court has jurisdiction to entertain this motion under 28 U.S.C. §157.
3. TD Bank, N.A. (hereinafter “TD”), is a secured creditor herein and the holder of a duly perfected mortgage interest in certain real property located at 526-528 Delkab Street, Norristown, Pennsylvania 19401 owned by, and upon information and belief, in the possession and control of the debtor, above-named.
4. Pursuant to 11 U.S.C. §362, upon the commencement of the instant bankruptcy case, TD is stayed from taking any action against the debtor to foreclose upon the real property.
5. On January 14, 2009, the debtor borrowed \$165,000.00 from TD. The indebtedness was evidenced by a Term Note, which was secured by a mortgage. Copies of the note and mortgage are annexed hereto and made a part hereof as Exhibit “A”.
6. The Mortgage was recorded on or about February 4, 2009 in the Office of the Montgomery County Clerk.

7. According to information provided by TD, as of July 24, 2019, the debtor was due for the August 1, 2018 through May 1, 2019 monthly post-petition mortgage payments with arrears totaling \$14,021.80.

8. As of July 25, 2019, the current balance remaining due and owing to TD was \$218,996.64. Real Estate Solutions has valued the premises at \$125,00.00. Therefore, there is no equity in the premises.

9. U.S.C. §362(d) provides for circumstances under which the Court may terminate, annul, modify, or condition the automatic stay. Specifically, 11 U.S.C. §362(d)(1) and (2), provide:

"(d) On request of a party in interest and after a notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying or conditioning such stay –

(1) for cause, including the lack of adequate protection of an interest in property of such party in interest; or

(2) with respect to a stay of an act against property under subsection (a) of this section, if –

(A) the debtors do not have an equity in such property; and

(B) such property is not necessary to an effective reorganization."

10. Debtor's failure to make payments is a default under the note and mortgage constituting cause for termination of the stay to allow the creditor to protect its interests in the property, which is depreciating.

11. It is respectfully asserted that TD's interest in the property will not be adequately protected if the automatic stay is allowed to remain in effect.

12. Sufficient cause exists to grant TD, relief from the automatic stay which includes the following:

a. The debtor is in default under the terms and conditions of the note and mortgage.

- b. The security interest of TD with respect to the property is not adequately protected as envisioned under 11 U.S.C. §361.

13. In the event relief from stay is granted, then TD shall provide surplus monies to the trustee or debtor in possession.

WHEREFORE, TD Bank, N.A. respectfully requests that pursuant to 11 U.S.C. §362 the Court issue an Order granting Movant relief from automatic stay in order to obtain possession and dispose of its property and for such other and further relief as to the Court may seem just and proper.

DATED: September 16, 2019

TD Bank, N.A.
By Its Counsel

/s/ Martin A. Mooney
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